

TMPDF

Trade Marks Patents and Designs Federation

Ron Marchant
Chief Executive
The Patent Office
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Cardiff Road
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23rd February, 2004

Dear Ron,

Community Patent Regulation

At its meeting on 13 February, the TMPDF Council discussed your e-mail asking for any feedback TMPDF might have on the ComPat negotiations.

As you are aware, TMPDF has for a number of months now been making the point to the Patent Office that we think the Community Patent Regulation as currently formulated does not address the needs of industry. This view is also strongly felt by our sister organisations in Europe. You can gauge the strength of this feeling from the enclosed letters which have been sent by European industry to the German, French, and Dutch governments at the end of 2003 urging that the project be set aside at least for the foreseeable future.* This is a view we in TMPDF fully endorse.

In view of this position, we do not think we can offer you much further guidance on what the UK can 'give' on the draft Regulation itself other than to say we remain firmly against the concept of the translated claims of the Community Patent having any legal effect. We believe that this should be a non-negotiable 'walk-away' item for the UK government. Not only is this view shared by French, German and Dutch industry groups and UNICE, but (we understand) by the German government, so that if you feel able to take such a position, I do not think that the UK will be isolated.

TMPDF has been offering its views on the jurisdictional arrangements for the Community Patent Court as it seems to us there still remain issues to be discussed. From the point of view of the Regulation itself, however, our belief is that we think an impasse has been reached.

I am sorry not to be more constructive. As I mentioned at the "three Presidents" meeting on 21 January, we believe that a bad COMPAT would worse than no COMPAT: it would not in practice

* I promised to send you the German letter at the "three Presidents" meeting with you and your colleagues on 21 January, and must apologise for not having sent it sooner.

get fixed later; and if it were little used, then the Commission would be likely to seek to undermine the competitive EPC and national systems.

Nevertheless, I hope that you find this letter helpful.

Yours sincerely,

Mike Jewess, President TMPDF

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